

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte RANDALL A. HOLLIDAY

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Appeal No. 1999-1120  
Application 08/592,562

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ON BRIEF

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Before HAIRSTON, LALL, and GROSS, Administrative Patent Judges.

LALL, Administrative Patent Judge.

DECISION ON APPEAL

Appeal No. 1999-1120  
Application 08/592,562

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection<sup>1</sup> of claims 43 through 52, which are all the pending claims in the application.

The disclosed invention is related to the combination of a cover assembly and re-entry tool for preventing unauthorized access to electrical cables extending along a wall or floor. The protective cover assembly includes a plurality of longitudinally spaced, U-shaped clip members which are securable to a wall or floor, an elongated, generally U-shaped cover which is engaged by the clip members and a re-entry tool which is necessary to disengage the cover from the clip members to prevent unauthorized access to the electrical cables. For example, the re-entry tool has a handle portion and a blade-like prying means. The prying means are designed with a substantially L-shaped thin blade to be inserted between the side portions of the cover and the side walls of the clip members to disengage abutment of the internal ridges

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<sup>1</sup>An amendment after the final rejection was filed as Paper No. 13. The examiner approved its entry. See Paper No. 14. However, this amendment has not been physically entered into the record. The amendment must be entered into the record and our decision considers the claims as if this amendment has been entered into the record.

from the external ledges (See Fig. 1). This prevents unauthorized access to the cables contained in the protective cover assembly. Further understanding of the invention can be obtained by the following claim.

43. A protective cover assembly for electrical cables for extension along a wall or floor surface comprising:

a plurality of elongated generally U-shaped clip members, each said clip member having a flat base, side walls extending outwardly from said base on opposite sides of said base, each said sidewall terminating in an upper end portion having a downwardly facing external ridge on an external surface of each said side wall;

elongated generally U-shaped cover means having an outer panel and opposite side portions extending inwardly from opposite sides of said panel, said cover means movable into overlapping relation to said clip members with said side portions movable into superimposed relation to said opposite side walls, each of said side portions having an upwardly facing internal ridge and means yieldingly urging said internal ridge into abutting engagement with said external ridge on each of said side walls to retain said cover means in position over said clip members, said ridges extending in a substantially common plane when disposed in abutting engagement with one another; and

a re-entry tool having opposite longitudinal ends including a handle portion disposed at one of said longitudinal ends and an upwardly extending blade-like prying means disposed at another of said longitudinal ends opposite to said handle, said prying means insertable into a limited clearance space between said side portion

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and said side wall for separating said internal ridge from said abutting engagement with said external ridge when a prying force is applied to said prying means whereby said cover means is removable from said clip members.

The examiner relies on no prior art.

Claims 43 through 52 stand rejected under 35 U.S.C. § 101 and under 35 U.S.C. § 112, second paragraph.

Rather than repeat the arguments of appellant and the examiner, we make reference to the brief and the answer for the respective details thereof.

#### OPINION

We have considered the rejections advanced by the examiner in the supporting arguments. We have, likewise, reviewed the appellant's arguments set forth in the brief.

We reverse.

The examiner rejects claims 43 through 52 at pages 3 and 4 of the examiner's answer under the two grounds of rejection i.e., 35 U.S.C. § 101 and 35 U.S.C. § 112, second paragraph, citing "Ex parte Beeson" and "Ex parte Rubsam". The rationale for both grounds of rejection is, according to the examiner, that the protective cover assembly and the re-entry tool are two different articles of manufacture which are not

permanently assembled together in a finished end product. Appellant has analyzed in detail the Beeson and the Rubsam decisions at pages 5 through 9 of the brief. Appellant also cites the Manual of Practice of Examining Procedure, § 706.03(a), which serves as a guideline for the rejections of claims under 35 U.S.C. § 101. We agree with appellant that rejections on the ground of aggregation of articles of different categories should be based upon a lack of cooperation between the elements of the claim, for example, a washing machine associated with a dial telephone. However, in this case the re-entry tool is interrelated to the cover assembly for the protecting of the wires and is used to pry open the cover for servicing of the cables. Therefore, we are not persuaded by the examiner's position that the claims call for two different articles of manufacture, and, therefore, are not properly patentable under 35 U.S.C. § 101.

Appellant has also argued the rejection of claims 43 through 52 under 35 U.S.C. § 112, second paragraph at pages 9 through 11 of the brief. The grounds of rejection by the examiner being the same as for the rejection under 35 U.S.C. § 101, the rationale for not sustaining the examiner's rejection

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under this section is the same. Therefore, we do not sustain the examiner's rejection of these claims under § 112, second paragraph.

The decision of the examiner rejecting claims 43 through 52 under 35 U.S.C. § 101 and 35 U.S.C. § 112, second paragraph is reversed.

REVERSED

	)	
KENNETH W. HAIRSTON	)	
Administrative Patent Judge	)	
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	)	
	)	BOARD OF PATENT
PARSHOTAM S. LALL	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
ANITA PELLMAN GROSS	)	
Administrative Patent Judge	)	

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